



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 12-MAR-2021

ORM Number: LRL-2021-00052-MAD

Associated JDs: N/A

Review Area Location¹:

State/Territory: KY City: County/Parish/Borough: Meade and Breckinridge County

Center Coordinates of Review Area: Latitude 37.90317 Longitude -86.272571

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)³

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
S1A-INT	350 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	During the field assessment the stream exhibited flowing water more than in response to precipitation and exhibited morphology typical of intermittent stream in the region including continuous bed and bank, presence of substrate sorting, width and depth of ordinary high water mark, and the amount of flowing water observed during the site visit. The stream drains underground in a karst region. Kentucky Geological Survey Mapping indicates a subterranean conduit crosses the point where S1A drains underground. The conduit drains west to an unnamed tributary to Sinking Creek which flows directly into the Ohio River, an (a)(1)

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District’s list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

			water.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A	N/A	N/A	N/A

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
S1B-EPH	704 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The upper reach of the channel did not contain flowing water during the assessment and exhibited a steeper gradient and a morphology typical of ephemeral streams in the region. The stream flows into S1A-INT.
SC1	339 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream exhibits a morphology typical of ephemeral streams in the region. The stream only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the field assessment. The stream south outside the review area.
SC2	366 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream exhibits a morphology typical of ephemeral streams in the region. The stream only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the field assessment. The stream flows into SC1, a (b) (3) excluded feature.
SC3	210 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream exhibits a morphology typical of ephemeral streams in the region. The stream only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the field assessment. The stream flows into SC1, a (b) (3) excluded feature.
SC4	264 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream exhibits a morphology typical of ephemeral streams in the region. The stream only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the field assessment. The stream flows into SC1, a (b) (3) excluded feature.
SC5	552 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the field assessment and had a morphology typical of ephemeral streams in the region. The stream flows into W4C, a (b) (1) excluded feature.
SC6	171 feet	(b)(3) Ephemeral feature, including	The stream only contains surface water flowing or

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

		an ephemeral stream, swale, gully, rill, or pool	pooling in direct response to precipitation and had no flow in the channel during the field assessment, is a first order stream that has a morphology typical of ephemeral streams in the region. The stream flows into SC% which has no downstream connection.
SC7	211 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the field assessment and had a morphology typical of ephemeral streams in the region. The stream losses a defined bed and bank upslope of wetland W4C.
SC8	33 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The stream only contains surface water flowing or pooling in direct response to precipitation and had no flow in the channel during the field assessment and had a morphology typical of ephemeral streams in the region. The stream flows into SC1, a (b) (3) excluded feature.
SC9	209 feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	SC9 is an intermittent channel which flows underground before leaving the review area. The channel drains into a mapped karst sinkhole. No subterranean conduits are mapped by the Kentucky Geological Survey in the vicinity of the stream, and there are no other indication of the stream contributing flow to any downstream jurisdictional resources.
W1A	0.02 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape located in a depression within a forested tract. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W2A	0.59 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape surrounded by upland field. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W3A	0.06 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W4A	0.14 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape surrounded by upland field. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W1B	0.06 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape surrounded by upland field. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W2B	0.17 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape surrounded by upland field. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W3B	0.11 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape surrounded by upland field. There is no indication of consolidated flow leaving the wetland, or potential

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

			connection to or flooding from downstream waters.
W4B	0.22 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape surrounded by upland field. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W5B	0.25 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape surrounded by upland field. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W6B	0.14 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape located on the edge of a forested tract. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W1C	0.17 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape surrounded by upland field. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W2C	0.11 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape surrounded by upland field. There is indication that flow exits the wetland through a grass swale that does not have a defined bed and bank.
W3C	0.42 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape surrounded by upland field. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W4C	0.02 acres	(b)(1) Non-adjacent wetland	The wetland abuts stream SC5, a (b)(1) excluded water. There are no other indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W5C	0.35 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape surrounded by upland field. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W6C	0.02 acres	(b)(1) Non-adjacent wetland	The wetland abuts SC9, an excluded (b)(1) water. There is no indication of any other potential connection to or flooding from downstream waters.
W1D	0.04 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape surrounded by upland field. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W2D	0.06 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape located in a depression within a forested tract. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
W3D	0.03 acres	(b)(1) Non-adjacent wetland	The wetland is physically isolated in the landscape located on the edge of a forested tract. There is no indication of consolidated flow leaving the wetland, or potential connection to or flooding from downstream waters.
WB1B	0.36 acres	(b)(1) Lake/pond or impoundment	The open water pond is physically isolated in the

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



**U.S. ARMY CORPS OF ENGINEERS
 REGULATORY PROGRAM
 APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
 NAVIGABLE WATERS PROTECTION RULE**

		that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	landscape surrounded by upland field. There is no indication of an outlet, or potential connection to downstream waters.
WB1D	0.3 acres	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	The open water pond is physically isolated in the landscape surrounded by upland field. There is no indication of an outlet, or potential connection to downstream waters.
WB2A	0.51 acres	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	The open water pond is physically isolated in the landscape surrounded by upland field. There is no indication of an outlet, or potential connection to downstream waters.
WB3A	0.17 acres	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	The open water pond is physically isolated in the landscape surrounded by upland field. There is no indication of an outlet, or potential connection to downstream waters.
WB4A	0.46 acres	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	The open water pond is physically isolated in the landscape surrounded by upland field. There is no indication of an outlet, or potential connection to downstream waters.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

- Information submitted by, or on behalf of, the applicant/consultant: *Jurisdictional Determination Request: Green River Solar Development dated January 12, 2012 prepared by Environmental Consulting & Technology, Inc. (ETC)*
 This information (*is/is not/is and is not*) sufficient for purposes of this AJD.
 Rationale: *N/A or describe rationale for insufficiency (including partial insufficiency).*
- Data sheets prepared by the Corps: *Title(s) and/or date(s).*
- Photographs: (*aerial and other*) *ECT, Inc. Appendix D: Photo Log photos dated 10/4-8/2020 Google Earth aerials dated (6/6/2020, 2/25/2018, 11/16/2013, 12/30/2007, 6/19/2004, 3/14/1998, 3/28/1993)*
- Corps Site visit(s) conducted on: *Date(s).*
- Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s).*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *Soil Survey Staff, Natural Resources Conservation Service, United*

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

States Department of Agriculture. Web Soil Survey. Available online at <http://websoilsurvey.sc.egov.usda.gov/>. Accessed 03/10/2021

USFWS NWI maps: *National Wetlands Inventory website. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. Available online at <http://www.fws.gov/wetlands/>. Accessed 03/10/2021*

USGS topographic maps: *24K Irvington, KY*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	U.S. Geological Survey, 2019, National Hydrography Dataset (ver. USGS National Hydrography Dataset Best Resolution (NHD) for Hydrologic Unit (HU) 4 - 2001 (published 20191002)), accessed 03/10/2021 at URL https://www.usgs.gov/core-science-systems/ngp/national-hydrography/access-national-hydrography-products
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A

B. Typical year assessment(s): The Antecedent Precipitation Tool was utilized for the October 8, 2020 site assessment. The data shows that the assessment was during normal conditions during the wet season. The site assessment was during typical year conditions

C. Additional comments to support AJD: N/A

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide and included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.